

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

APRIL LIVAS

CIVIL ACTION NO.: 5:22-cv-1289

VERSUS

JUDGE:

DIGCO UTILITY CONSTRUCTION, L.P.,
OLD REPUBLIC INSURANCE COMPANY
AND JUNIOR THOMAS

MAGISTRATE JUDGE:

**NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT
COURT FOR THE WESTERN DISTRICT OF LOUISIANA**

NOW INTO COURT, through the undersigned counsel, come Petitioners, DIGCO UTILITY CONSTRUCTION, L.P. (“DIGCO”), and OLD REPUBLIC INSURANCE COMPANY (“OLD REPUBLIC”), who, with respect represent:

I. THE STATE COURT ACTION

1.

Plaintiff, APRIL LIVAS (“Plaintiff”), filed suit against Defendants, DIGCO, OLD REPUBLIC and JUNIOR THOMAS, in an action bearing Docket No. 635,502-B, in the First Judicial District Court, Caddo Parish, Louisiana.

2.

Plaintiff’s Petition was filed on February 25, 2022.

3.

Service of process was made on DIGCO on March 16, 2022. Service was made on OLD REPUBLIC on March 16, 2022.

4.

As of this date, JUNIOR THOMAS has not been served with the Petition nor has he filed responsive pleadings.

5.

As of this date, DIGCO and OLD REPUBLIC have both filed responsive pleadings.

6.

Pursuant to 28 U.S.C. 1446(a), Petitioners, DIGCO and OLD REPUBLIC, file herewith a copy of all pleadings and orders served upon them:

- (a) Citation and Petition served on DIGCO (see Exhibit “A”);
- (b) Citation and Petition served on OLD REPUBLIC (see Exhibit “B”);
and
- (c) Answer to Petition on behalf of DIGCO and OLD REPUBLIC (see Exhibit “C”).

To the knowledge of Petitioners, no additional process, pleadings, or orders have been filed in this action.

II. ORIGINAL SUBJECT MATTER JURISDICTION

A. Diversity of Citizenship

On the date the state court action was filed and at the time this action was removed to federal court, Plaintiff was a citizen of Bossier Parish, Louisiana.

7.

On the date the state court action was filed and at the time this action was removed to federal court, DIGCO was a Delaware limited partnership, directly and indirectly wholly-owned by QSI, Inc. a Delaware corporation, with its principal place of business in Houston, Texas, and is therefore a citizen of the states of Texas and Delaware.

8.

On the date the state court action was filed and at the time this action was removed to federal court, OLD REPUBLIC was a foreign insurance company authorized to do and doing business in the State of Louisiana, incorporated in the State of Pennsylvania, and having its principal place of business in Chicago, Illinois, and is therefore a citizen of the states of Pennsylvania and Illinois.

9.

On the date the state court action was filed, JUNIOR THOMAS was alleged to be a citizen of Orange County, Texas. As of this date, JUNIOR THOMAS has not been properly joined and served.

10.

The District Court for the Western District of Louisiana, which includes within its territorial scope the Parish of Caddo, where this matter was initially filed, has original jurisdiction over all claims asserted by the Plaintiff against DIGCO, OLD REPUBLIC and JUNIOR THOMAS under 28 U.S.C. § 1332(a).

11.

This action is between “citizens of different states” and thereby satisfies the requirement set out in 28 U.S.C. § 1332(a)(1).

12.

No change in citizenship of DIGCO and OLD REPUBLIC has occurred since the commencement of this action.

B. Amount in Controversy

13.

The amount in controversy exceeds \$75,000, exclusive of interest and costs. Plaintiff's Response to Request for Admission of Fact No. 1 admits the amount in controversy exceeds \$75,000, exclusive of interests and costs. (see Exhibit "D") A "defendant's notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold." *Dart Cherokee Basin Operating Co. v. Owens*, 135 S. Ct. 547, 554 (2014).

14.

Accordingly, the court has original jurisdiction over this matter under 28 U.S.C. § 1332 because the parties-in-interest are citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs; this case may be removed to this court under 28 U.S.C. § 1441.

III. TIMELINESS OF REMOVAL

15.

As required by 28 U.S.C. § 1446(c) this Notice of Removal is timely because it has been filed within 30 days of the date that Defendants were notified of the amount in controversy exceeding \$75,000.00.

16.

DIGCO and OLD REPUBLIC were served with Plaintiff's Responses to Requests for Admissions on May 3, 2022, which informed Defendants of Plaintiff's amount in controversy exceeding \$75,000.00.

IV. OTHER PROCEDURAL REQUIREMENTS

17.

Pursuant to 28 U.S.C. 1441(a), venue is proper in this Court as it is located in the district and division embracing the place wherein the action is currently pending.

18.

As required by 28 U.S.C. § 1446(d), DIGCO and OLD REPUBLIC will promptly give written notice to Plaintiff's counsel of the filing of this Notice of Removal and will promptly file a copy of this Notice of Removal, along with a Notice of Filing, with the Clerk of Court for the First Judicial District Court, Parish of Caddo, Louisiana, where the state court action was pending.

19.

DIGCO and OLD REPUBLIC file and present herewith the appropriate sum as required by 28 U.S.C. § 1446 and 1914(a).

20.

DIGCO and OLD REPUBLIC specifically reserve any and all objections, exceptions or defenses available to them, including, but not limited to, insufficiency of service of process, jurisdiction of the person or venue, and specifically reserve the right to assert any and all defenses or objections to which it may be entitled.

WHEREFORE, Petitioners, DIGCO UTILITY CONSTRUCTION, L.P. and OLD REPUBLIC INSURANCE COMPANY, pray that this action be removed from the First Judicial District Court, Caddo Parish, Louisiana, to the United States District Court for the Western District of Louisiana, Shreveport Division.

Respectfully submitted,

COOK, YANCEY, KING & GALLOWAY
A Professional Law Corporation

By: s/ Sidney E. Cook, Jr.
Sidney E. Cook, Jr. (#1311)
333 Texas Street, Suite 1700 (71101)
P. O. Box 22260
Shreveport, LA 71120-2260
Telephone: (318) 221-6277
Facsimile: (318) 227-7850
Email: sidney.cook@cookyancey.com

ATTORNEYS FOR DIGCO UTILITY
CONSTRUCTION, L.P. AND OLD REPUBLIC
INSURANCE COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing was filed with the U.S. District Court for the Western District of Louisiana by electronic case filing/case management and that a copy of same was served on all counsel of record by electronic mail.

Shreveport, Louisiana, this 13th day of May, 2022.

s/ Sidney E. Cook, Jr.
Sidney E. Cook, Jr.